

AMENDED IN SENATE JUNE 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1396

Introduced by Committee on Banking and Finance (Dickinson (Chair), Morrell (Vice Chair), Achadjian, Blumenfield, Bonta, Chau, Gatto, Harkey, Linder, Perea, Torres, and Weber)

March 6, 2013

An act to amend Sections 25005, 29503, and 31004 of the Corporations Code, to amend Sections 125, 300, 320, 4805.055, 5104, 5106, 12003, 14003, 14200.1, 14200.2, 17002, 18002, 18002.5, 22005, 30002, 31055, and 50003 of, to repeal and add Sections 321, 351, and 371 of, and to amend the headings of Chapter 3 (commencing with Section 300) of, and Article 2 (commencing with Section 320) of Chapter 3 of Division 1 of, the Financial Code, and to amend Sections 11552, 13978.6, and 13984 of, and to add Section 12804 to, the Government Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1396, as amended, Committee on Banking and Finance. Department of Financial Services.

Existing law, until July 1, 2013, creates the Department of Corporations and the Department of Financial Institutions within the Business, Transportation and Housing Agency. The Department of Corporations provides for the licensure and regulation of businesses engaged in financial transactions, including securities brokers and dealers, investment advisors, financial planners, and certain fiduciaries and lenders, as specified. The Department of Financial Institutions oversees the operation of state-chartered financial institutions, including banks, credit unions, and various entities providing financial services.

The Commissioner of Corporations and the Commissioner of Financial Institutions are responsible for overseeing and carrying out the duties and responsibilities of their respective departments.

The Governor's Reorganization Plan No. 2 of 2012 (GRP 2), effective July 1, 2013, abolishes the Department of Corporations and the Department of Financial Institutions and transfer their responsibilities to the Department of Business Oversight, which would be established within the Business and Consumer Services Agency. The executive officer of the new Department of Business Oversight would be the Commissioner of Business Oversight. The department is organized to include a Division of Corporations and a Division of Financial Institutions, each of which would be overseen by a deputy commissioner of the department.

This bill would delete references to the Department of Business Oversight, as provided for in the GRP 2, and would instead transfer the duties of the Department of Corporations and the Department of Financial Institutions to the Department of Financial Services, as specified. The bill also would make various technical changes provided for in the GRP 2.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25005 of the Corporations Code is
- 2 amended to read:
- 3 25005. "Commissioner" means the ~~Deputy~~ Commissioner of
- 4 ~~Financial Services for the Division of Corporations.~~ *Services.*
- 5 SEC. 2. Section 29503 of the Corporations Code is amended
- 6 to read:
- 7 29503. "Commissioner" means the ~~Deputy~~ Commissioner of
- 8 ~~Financial Services for the Division of Corporations.~~ *Services.*
- 9 SEC. 3. Section 31004 of the Corporations Code is amended
- 10 to read:
- 11 31004. "Commissioner" means the ~~Deputy~~ Commissioner of
- 12 ~~Financial Services for the Division of Financial Institutions.~~
- 13 *Services.*
- 14 SEC. 4. Section 125 of the Financial Code is amended to read:

1 125. “Commissioner” means the Commissioner of Financial
2 Services and “department” means the Department of Financial
3 Services.

4 SEC. 5. The heading of Chapter 3 (commencing with Section
5 300) of Division 1 of the Financial Code is amended to read:

6
7 CHAPTER 3. DEPARTMENT OF FINANCIAL SERVICES
8

9 SEC. 6. Section 300 of the Financial Code, as amended by
10 Section 5 of Chapter 147 of the Statutes of 2012, is amended to
11 read:

12 300. (a) In this section:

13 (1) “Business and industrial development corporation” means
14 a corporation licensed under Division 15 (commencing with
15 Section 31000).

16 (2) “Payment instrument” has the same meaning as set forth in
17 Section 33059.

18 (3) “Traveler’s check” has the same meaning as set forth in
19 Section 1803.

20 (b) There is in the state government, in the Business, Consumer
21 Services, and Housing Agency, a Department of Financial Services,
22 which has charge of the execution of, among other laws, the laws
23 of this state relating to any of the following: (1) banks or trust
24 companies or the banking or trust business; (2) savings associations
25 or the savings association business; (3) credit unions or the credit
26 union business; (4) persons who engage in the business of receiving
27 money for transmission to foreign nations or such business; (5)
28 issuers of traveler’s checks or the traveler’s check business; (6)
29 issuers of payment instruments or the payment instrument business;
30 (7) business and industrial development corporations or the
31 business and industrial development corporation business; or (8)
32 insurance premium finance agencies or the insurance premium
33 finance business.

34 SEC. 7. The heading of Article 2 (commencing with Section
35 320) of Chapter 3 of Division 1 of the Financial Code is amended
36 to read:

37
38 Article 2. Commissioner of Financial Services
39

40 SEC. 8. Section 320 of the Financial Code is amended to read:

1 320. The chief officer of the Department of Financial Services
2 is the Commissioner of Financial Services. The Commissioner of
3 Financial Services is the head of the department, with the authority
4 and responsibility over all officers, employees, and activities in
5 the department, and, except as otherwise provided in this code, is
6 subject to the provisions of the Government Code relating to
7 department heads, but need not reside in Sacramento.

8 SEC. 9. Section 321 of the Financial Code is repealed.

9 SEC. 10. Section 321 is added to the Financial Code, to read:

10 321. (a) In this section, “order” means any approval, consent,
11 authorization, exemption, denial, prohibition, requirement, or other
12 administrative action, applicable to a specific case.

13 (b) The office of the Commissioner of Financial Institutions
14 and the Department of Financial Institutions are abolished. All
15 powers, duties, responsibilities, and functions of the Commissioner
16 of Financial Institutions and the Department of Financial
17 Institutions are transferred to the Commissioner of Financial
18 Services and the Department of Financial Services, respectively.
19 The Commissioner of Financial Services and the Department of
20 Financial Services succeed to all of the rights and property of the
21 Commissioner of Financial Institutions and Department of
22 Financial Institutions, respectively; the Commissioner of Financial
23 Services and the Department of Financial Services are subject to
24 all the debts and liabilities of the Commissioner of Financial
25 Institutions and the Department of Financial Institutions,
26 respectively, as if the Commissioner of Financial Services and the
27 Department of Financial Services had incurred them. Any action
28 or proceeding by or against the Commissioner of Financial
29 Institutions or the Department of Financial Institutions may be
30 prosecuted to judgment, which shall bind the Commissioner of
31 Financial Services or the Department of Financial Services,
32 respectively, or the Commissioner of Financial Services or the
33 Department of Financial Services may be proceeded against or
34 substituted in place of the Commissioner of Financial Institutions
35 or the Department of Financial Institutions, respectively.
36 References in the Constitution of the State of California or in any
37 statute or regulation to the Superintendent of Banks or the
38 Commissioner of Financial Institutions or to the State Banking
39 Department or the Department of Financial Institutions mean the
40 Commissioner of Financial Services or the Department of Financial

1 Services, respectively. All agreements entered into with, and orders
2 and regulations issued by, the Commissioner of Financial
3 Institutions or the Department of Financial Institutions shall
4 continue in effect as if the agreements were entered into with, and
5 the orders and regulations were issued by, the Commissioner of
6 Financial Services or the Department of Financial Services,
7 respectively.

8 (c) The office of the Commissioner of Corporations and the
9 Department of Corporations are abolished. All powers, duties,
10 responsibilities, and functions of the Commissioner of Corporations
11 and the Department of Corporations are transferred to the
12 Commissioner of Financial Services and the Department of
13 Financial Services, respectively. The Commissioner of Financial
14 Services and the Department of Financial Services succeed to all
15 of the rights and property of the Commissioner of Corporations
16 and Department of Corporations, respectively; the Commissioner
17 of Financial Services and the Department of Financial Services
18 are subject to all the debts and liabilities of the Commissioner of
19 Corporations and the Department of Corporations, respectively,
20 as if the Commissioner of Financial Services and the Department
21 of Financial Services had incurred them. Any action or proceeding
22 by or against the Commissioner of Corporations or the Department
23 of Corporations may be prosecuted to judgment, which shall bind
24 the Commissioner of Financial Services or the Department of
25 Financial Services, respectively, or the Commissioner of Financial
26 Services or the Department of Financial Services may be proceeded
27 against or substituted in place of the Commissioner of Corporations
28 or the Department of Corporations, respectively. References in the
29 Constitution of the State of California or in any statute or regulation
30 to the Commissioner of Corporations or the Department of
31 Corporations mean the Commissioner of Financial Services or the
32 Department of Financial Services, respectively. All agreements
33 entered into with, and orders and regulations issued by, the
34 Commissioner of Corporations or the Department of Corporations
35 shall continue in effect as if the agreements were entered into with,
36 and the orders and regulations were issued by, the Commissioner
37 of Financial Services or the Department of Financial Services,
38 respectively.

39 SEC. 11. Section 351 of the Financial Code is repealed.

40 SEC. 12. Section 351 is added to the Financial Code, to read:

351. (a) The chief officer of the Division of Corporations is the *Senior Deputy Commissioner of Financial Services* for the Division of Corporations. The *Senior Deputy Commissioner of Financial Services* for the Division of Corporations shall, under the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Corporations. The *Senior Deputy Commissioner of Financial Services* for the Division of Corporations shall be appointed by the Governor, *subject to Senate confirmation*, and shall hold office at the pleasure of the Governor. The *Senior Deputy Commissioner of Financial Services* for the Division of Corporations shall receive an annual salary as fixed by the Governor.

(b) The chief officer of the Division of Financial Institutions is the *Senior Deputy Commissioner of Financial Services* for the Division of Financial Institutions. The *Senior Deputy Commissioner of Financial Services* for the Division of Financial Institutions shall, under the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions. The *Senior Deputy Commissioner of Financial Services* for the Division of Financial Institutions shall be appointed by the Governor, *subject to Senate confirmation*, and shall hold office at the pleasure of the Governor. The *Senior Deputy Commissioner of Financial Services* for the Division of Financial Institutions shall receive an annual salary as fixed by the Governor.

SEC. 13. Section 371 of the Financial Code is repealed.

SEC. 14. Section 371 is added to the Financial Code, to read:

371. (a) There is in the Department of Financial Services, the Division of ~~Corporations~~. ~~The Division of Corporations~~ *Corporations, under the direction of the Senior Deputy Commissioner of Financial Services for the Division of Corporations. The senior deputy commissioner* has charge of the execution of the laws of the state that were, prior to July 1, 2013, under the charge of the Department of Corporations.

(b) There is in the Department of Financial Services, the *Senior Deputy Commissioner of Financial Services for the Division of Financial Institutions*. ~~The~~ *Under the direction of the senior deputy commissioner, the Division of Financial Institutions* has charge of the execution of the laws of the state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions.

1 SEC. 15. Section 4805.055 of the Financial Code is amended
2 to read:

3 4805.055. “Commissioner” means the ~~Deputy~~ Commissioner
4 of Financial ~~Services for the Division of Financial Institutions.~~
5 *Services.*

6 SEC. 16. Section 5104 of the Financial Code is amended to
7 read:

8 5104. “Commissioner” means ~~Deputy~~ the Commissioner of
9 Financial ~~Services for the Division of Financial Institutions.~~
10 *Services.*

11 SEC. 17. Section 5106 of the Financial Code is amended to
12 read:

13 5106. “Department” means ~~the Division of Financial~~
14 ~~Institutions in the Department of Financial Services.~~

15 SEC. 18. Section 12003 of the Financial Code is amended to
16 read:

17 12003. “Commissioner” means the ~~Deputy~~ Commissioner of
18 Financial Services ~~for the Division of Corporations~~, or any deputy,
19 investigator, auditor, or any other person employed by him or her.

20 SEC. 19. Section 14003 of the Financial Code is amended to
21 read:

22 14003. “Commissioner” means the ~~Deputy~~ Commissioner of
23 Financial ~~Services for the Division of Financial Institutions.~~
24 *Services.*

25 SEC. 20. Section 14200.1 of the Financial Code is amended
26 to read:

27 14200.1. There is in the Department of Financial Services, the
28 Office of Credit Unions. The Office of Credit Unions has charge
29 of the execution of the laws of this state relating to credit unions
30 or to the credit union business.

31 SEC. 21. Section 14200.2 of the Financial Code is amended
32 to read:

33 14200.2. The Chief Officer of the Office of Credit Unions is
34 the Deputy Commissioner of ~~Financial Services for the Office of~~
35 Credit Unions. The ~~Chief Deputy Commissioner~~ of the Office of
36 Credit Unions, *under the direction and on behalf of the Senior*
37 *Deputy Commissioner of Business Oversight for the Division of*
38 *Financial Institutions*, shall administer the laws of this state relating
39 to credit unions or the credit union ~~business under the direction of~~
40 ~~and on behalf of the commissioner. The Chief business. The Deputy~~

1 *Commissioner* of the Office of Credit Unions shall be appointed
2 by the Governor and shall hold office at the pleasure of the
3 Governor. ~~The Chief Deputy Commissioner~~ of the Office of Credit
4 Unions shall receive an annual salary as fixed by the Governor.

5 SEC. 22. Section 17002 of the Financial Code is amended to
6 read:

7 17002. “Commissioner” means the ~~Deputy~~ Commissioner of
8 Financial ~~Services for the Division of Corporations.~~ *Services.*

9 SEC. 23. Section 18002 of the Financial Code is amended to
10 read:

11 18002. “Commissioner” means the ~~Deputy~~ Commissioner of
12 Financial ~~Services for the Division of Financial Institutions.~~
13 *Services.*

14 SEC. 24. Section 18002.5 of the Financial Code is amended
15 to read:

16 18002.5. “Department” means the ~~Division of Financial~~
17 ~~Institutions in the~~ Department of Financial Services.

18 SEC. 25. Section 22005 of the Financial Code is amended to
19 read:

20 22005. “Commissioner” means the ~~Deputy~~ Commissioner of
21 Financial ~~Services for the Division of Corporations.~~ *Services.*

22 SEC. 26. Section 30002 of the Financial Code is amended to
23 read:

24 30002. “Commissioner” means the ~~Deputy~~ Commissioner of
25 Financial ~~Services for the Division of Corporations.~~ *Services.*

26 SEC. 27. Section 31055 of the Financial Code is amended to
27 read:

28 31055. “Commissioner” means the ~~Deputy~~ Commissioner of
29 Financial Services ~~for the Division of Financial Institutions~~ or any
30 person to whom the ~~deputy~~ commissioner delegates the authority
31 to act for him or her in the particular matter.

32 SEC. 28. Section 50003 of the Financial Code is amended to
33 read:

34 50003. (a) “Annual audit” means a certified audit of the
35 licensee’s books, records, and systems of internal control performed
36 by an independent certified public accountant in accordance with
37 generally accepted accounting principles and generally accepted
38 auditing standards.

39 (b) “Borrower” means the loan applicant.

1 (c) “Buy” includes exchange, offer to buy, or solicitation to
2 buy.

3 (d) “Commissioner” means the ~~Deputy~~ Commissioner of
4 Financial ~~Services for the Division of Corporations~~. *Services*.

5 (e) “Control” means the possession, directly or indirectly, of
6 the power to direct, or cause the direction of, the management and
7 policies of a licensee under this division, whether through voting
8 or through the ownership of voting power of an entity that
9 possesses voting power of the licensee, or otherwise. Control is
10 presumed to exist if a person, directly or indirectly, owns, controls,
11 or holds 10 percent or more of the voting power of a licensee or
12 of an entity that owns, controls, or holds, with power to vote, 10
13 percent or more of the voting power of a licensee. No person shall
14 be deemed to control a licensee solely by reason of his or her status
15 as an officer or director of the licensee.

16 (f) “Depository institution” has the same meaning as in Section
17 3 of the Federal Deposit Insurance Act, and includes any credit
18 union.

19 (g) “Engage in the business” means the dissemination to the
20 public, or any part of the public, by means of written, printed, or
21 electronic communication or any communication by means of
22 recorded telephone messages or spoken on radio, television, or
23 similar communications media, of any information relating to the
24 making of residential mortgage loans, the servicing of residential
25 mortgage loans, or both. “Engage in the business” also means,
26 without limitation, making residential mortgage loans or servicing
27 residential mortgage loans, or both.

28 (h) “Federal banking agencies” means the Board of Governors
29 of the Federal Reserve System, the Comptroller of the Currency,
30 the Director of the Office of Thrift Supervision, the National Credit
31 Union Administration, and the Federal Deposit Insurance
32 Corporation.

33 (i) “In this state” includes any activity of a person relating to
34 making or servicing a residential mortgage loan that originates
35 from this state and is directed to persons outside this state, or that
36 originates from outside this state and is directed to persons inside
37 this state, or that originates inside this state and is directed to
38 persons inside this state, or that leads to the formation of a contract
39 and the offer or acceptance thereof is directed to a person in this

1 state (whether from inside or outside this state and whether the
2 offer was made inside or outside the state).

3 (j) “Institutional investor” means the following:

4 (1) The United States or any state, district, territory, or
5 commonwealth thereof, or any city, county, city and county, public
6 district, public authority, public corporation, public entity, or
7 political subdivision of a state, district, territory, or commonwealth
8 of the United States, or any agency or other instrumentality of any
9 one or more of the foregoing, including, by way of example, the
10 Federal National Mortgage Association and the Federal Home
11 Loan Mortgage Corporation.

12 (2) Any bank, trust company, savings bank or savings and loan
13 association, credit union, industrial bank or industrial loan
14 company, personal property broker, consumer finance lender,
15 commercial finance lender, or insurance company, or subsidiary
16 or affiliate of one of the preceding entities, doing business under
17 the authority of or in accordance with a license, certificate, or
18 charter issued by the United States or any state, district, territory,
19 or commonwealth of the United States.

20 (3) Trustees of pension, profit-sharing, or welfare funds, if the
21 pension, profit-sharing, or welfare fund has a net worth of not less
22 than fifteen million dollars (\$15,000,000), except pension,
23 profit-sharing, or welfare funds of a licensee or its affiliate,
24 self-employed individual retirement plans, or individual retirement
25 accounts.

26 (4) A corporation or other entity with outstanding securities
27 registered under Section 12 of the federal Securities Exchange Act
28 of 1934 or a wholly owned subsidiary of that corporation or entity,
29 provided that the purchaser represents either of the following:

30 (A) That it is purchasing for its own account for investment and
31 not with a view to, or for sale in connection with, any distribution
32 of a promissory note.

33 (B) That it is purchasing for resale pursuant to an exemption
34 under Rule 144A (17 C.F.R. 230.144A) of the Securities and
35 Exchange Commission.

36 (5) An investment company registered under the Investment
37 Company Act of 1940; or a wholly owned and controlled subsidiary
38 of that company, provided that the purchaser makes either of the
39 representations provided in paragraph (4).

1 (6) A residential mortgage lender or servicer licensed to make
2 residential mortgage loans under this law or an affiliate or
3 subsidiary of that person.

4 (7) Any person who is licensed as a securities broker or
5 securities dealer under any law of this state, or of the United States,
6 or any employee, officer, or agent of that person, if that person is
7 acting within the scope of authority granted by that license or an
8 affiliate or subsidiary controlled by that broker or dealer, in
9 connection with a transaction involving the offer, sale, purchase,
10 or exchange of one or more promissory notes secured directly or
11 indirectly by liens on real property or a security representing an
12 ownership interest in a pool of promissory notes secured directly
13 or indirectly by liens on real property, and the offer and sale of
14 those securities is qualified under the California Corporate
15 Securities Law of 1968 or registered under federal securities laws,
16 or exempt from qualification or registration.

17 (8) A licensed real estate broker selling the loan to an
18 institutional investor specified in paragraphs (1) to (7), inclusive,
19 or paragraph (9) or (10).

20 (9) A business development company as defined in Section
21 2(a)(48) of the Investment Company Act of 1940 or a Small
22 Business Investment Company licensed by the United States Small
23 Business Administration under Section 301(c) or (d) of the Small
24 Business Investment Act of 1958.

25 (10) A syndication or other combination of any of the foregoing
26 entities that is organized to purchase a promissory note.

27 (11) A trust or other business entity established by an
28 institutional investor for the purpose of issuing or facilitating the
29 issuance of securities representing undivided interests in, or rights
30 to receive payments from or to receive payments primarily from,
31 a pool of financial assets held by the trust or business entity,
32 provided that all of the following apply:

33 (A) The business entity is not a sole proprietorship.

34 (B) The pool of assets consists of one or more of the following:

35 (i) Interest-bearing obligations.

36 (ii) Other contractual obligations representing the right to receive
37 payments from the assets.

38 (iii) Surety bonds, insurance policies, letters of credit, or other
39 instruments providing credit enhancement for the assets.

40 (C) The securities will be either one of the following:

(i) Rated as “investment grade” by Standard and Poor’s Corporation or Moody’s Investors Service, Inc. “Investment grade” means that the securities will be rated by Standard and Poor’s Corporation as AAA, AA, A, or BBB or by Moody’s Investors Service, Inc. as Aaa, Aa, A, or Baa, including any of those ratings with “+” or “—” designation or other variations that occur within those ratings.

(ii) Sold to an institutional investor.

(D) The offer and sale of the securities is qualified under the California Corporate Securities Law of 1968 or registered under federal securities laws, or exempt from qualification or registration.

(k) “Institutional lender” means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing, including, by way of example, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial loan company, or insurance company, or service or investment company that is wholly owned and controlled by one of the preceding entities, doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(4) A residential mortgage lender or servicer licensed to make residential mortgage loans under this law.

(l) “Law” means the California Residential Mortgage Lending Act.

(m) “Lender” means a person that (1) is an approved lender for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, (2) directly makes residential

1 mortgage loans, and (3) makes the credit decision in the loan
2 transactions.

3 (n) “Licensee” means, depending on the context, a person
4 licensed under Chapter 2 (commencing with Section 50120),
5 Chapter 3 (commencing with Section 50130), or Chapter 3.5
6 (commencing with Section 50140).

7 (o) “Makes or making residential mortgage loans” or “mortgage
8 lending” means processing, underwriting, or as a lender using or
9 advancing one’s own funds, or making a commitment to advance
10 one’s own funds, to a loan applicant for a residential mortgage
11 loan.

12 (p) “Mortgage loan,” “residential mortgage loan,” or “home
13 mortgage loan” means a federally related mortgage loan as defined
14 in Section 3500.2 of Title 24 of the Code of Federal Regulations,
15 or a loan made to finance construction of a one-to-four family
16 dwelling.

17 (q) “Mortgage servicer” or “residential mortgage loan servicer”
18 means a person that (1) is an approved servicer for the Federal
19 Housing Administration, Veterans Administration, Farmers Home
20 Administration, Government National Mortgage Association,
21 Federal National Mortgage Association, or Federal Home Loan
22 Mortgage Corporation, and (2) directly services or offers to service
23 mortgage loans.

24 (r) “Nationwide Mortgage Licensing System and Registry”
25 means a mortgage licensing system developed and maintained by
26 the Conference of State Bank Supervisors and the American
27 Association of Residential Mortgage Regulators for the licensing
28 and registration of licensed mortgage loan originators.

29 (s) “Net worth” has the meaning set forth in Section 50201.

30 (t) “Own funds” means (1) cash, corporate capital, or warehouse
31 credit lines at commercial banks, savings banks, savings and loan
32 associations, industrial loan companies, or other sources that are
33 liability items on a lender’s financial statements, whether secured
34 or unsecured, or (2) a lender’s affiliate’s cash, corporate capital,
35 or warehouse credit lines at commercial banks or other sources
36 that are liability items on the affiliate’s financial statements,
37 whether secured or unsecured. “Own funds” does not include funds
38 provided by a third party to fund a loan on condition that the third
39 party will subsequently purchase or accept an assignment of that
40 loan.

1 (u) “Person” means a natural person, a sole proprietorship, a
2 corporation, a partnership, a limited liability company, an
3 association, a trust, a joint venture, an unincorporated organization,
4 a joint stock company, a government or a political subdivision of
5 a government, and any other entity.

6 (v) “Residential real property” or “residential real estate” means
7 real property located in this state that is improved by a one-to-four
8 family dwelling.

9 (w) “SAFE Act” means the federal Secure and Fair Enforcement
10 for Mortgage Licensing Act of 2008 (Public Law 110-289).

11 (x) “Service” or “servicing” means receiving more than three
12 installment payments of principal, interest, or other amounts placed
13 in escrow, pursuant to the terms of a mortgage loan and performing
14 services by a licensee relating to that receipt or the enforcement
15 of its receipt, on behalf of the holder of the note evidencing that
16 loan.

17 (y) “Sell” includes exchange, offer to sell, or solicitation to sell.

18 (z) “Unique identifier” means a number or other identifier
19 assigned by protocols established by the Nationwide Mortgage
20 Licensing System and Registry.

21 (aa) For purposes of Sections 50142, 50143, and 50145,
22 “nontraditional mortgage product” means any mortgage product
23 other than a 30-year fixed rate mortgage.

24 (ab) For purposes of Section 50141, “expungement” means the
25 subsequent order under the provisions of Section 1203.4 of the
26 Penal Code allowing such individual to withdraw his or her plea
27 of guilty and to enter a plea of not guilty, or setting aside the verdict
28 of guilty or dismissing the accusation, information, or indictment.
29 With respect to criminal convictions in another state, that state’s
30 definition of expungement will apply.

31 SEC. 29. Section 11552 of the Government Code is amended
32 to read:

33 11552. (a) Effective January 1, 1988, an annual salary of
34 eighty-five thousand four hundred two dollars (\$85,402) shall be
35 paid to each of the following:

- 36 (1) Commissioner of Financial Services.
- 37 (2) Director of Transportation.
- 38 (3) Real Estate Commissioner.
- 39 (4) Director of Social Services.
- 40 (5) Director of Water Resources.

- 1 (6) Director of General Services.
- 2 (7) Director of Motor Vehicles.
- 3 (8) Executive Officer of the Franchise Tax Board.
- 4 (9) Director of Employment Development.
- 5 (10) Director of Alcoholic Beverage Control.
- 6 (11) Director of Housing and Community Development.
- 7 (12) Director of Alcohol and Drug Programs.
- 8 (13) Director of Statewide Health Planning and Development.
- 9 (14) Director of the Department of Personnel Administration.
- 10 (15) Director of Health Care Services.
- 11 (16) Director of Mental Health.
- 12 (17) Director of Developmental Services.
- 13 (18) State Public Defender.
- 14 (19) Director of the California State Lottery.
- 15 (20) Director of Fish and Wildlife.
- 16 (21) Director of Parks and Recreation.
- 17 (22) Director of Rehabilitation.
- 18 (23) Director of the Office of Administrative Law.
- 19 (24) Director of Consumer Affairs.
- 20 (25) Director of Forestry and Fire Protection.
- 21 (26) The Inspector General pursuant to Section 6125 of the
- 22 Penal Code.
- 23 (27) Director of Child Support Services.
- 24 (28) Director of Industrial Relations.
- 25 (29) Director of Toxic Substances Control.
- 26 (30) Director of Pesticide Regulation.
- 27 (31) Director of the Department of Managed Health Care.
- 28 (32) Director of Environmental Health Hazard Assessment.
- 29 (33) Director of Technology.
- 30 (34) Director of California Bay-Delta Authority.
- 31 (35) Director of California Conservation Corps.
- 32 (b) The annual compensation provided by this section shall be
- 33 increased in any fiscal year in which a general salary increase is
- 34 provided for state employees. The amount of the increase provided
- 35 by this section shall be comparable to, but shall not exceed, the
- 36 percentage of the general salary increases provided for state
- 37 employees during that fiscal year.
- 38 SEC. 30. Section 12804 is added to the Government Code, to
- 39 read:

1 12804. There is in the state government the Business and
2 Consumer Services Agency.

3 The Business and Consumer Services Agency consists of the
4 following: the Department of Consumer Affairs, the Department
5 of Housing and Community Development, the Department of Fair
6 Employment and Housing, the Department of Financial Services,
7 the Department of Alcoholic Beverage Control, the Alcoholic
8 Beverage Control Appeals Board, the California Horse Racing
9 Board, and the Alfred E. Alquist Seismic Safety Commission.

10 SEC. 31. Section 13978.6 of the Government Code, as amended
11 by Section 18 of Chapter 147 of the Statutes of 2012, is amended
12 to read:

13 13978.6. (a) There is in the Business, Consumer Services, and
14 Housing Agency a Department of Financial Services containing
15 the Division of Corporations, which has the responsibility for
16 administering various laws. In order to effectively support the
17 Division of Corporations in the administration of these laws, there
18 is hereby established the State Corporations Fund. All expenses
19 and salaries of the Division of Corporations shall be paid out of
20 the State Corporations Fund. Therefore, notwithstanding any
21 provision of any law administered by the Division of Corporations
22 declaring that fees, reimbursements, assessments, or other money
23 or amounts charged and collected by the Division of Corporations
24 under these laws are to be delivered or transmitted to the Treasurer
25 and deposited to the credit of the General Fund, all fees,
26 reimbursements, assessments, and other money or amounts charged
27 and collected under these laws shall be delivered or transmitted to
28 the Treasurer and deposited to the credit of the State Corporations
29 Fund.

30 (b) Funds appropriated from the State Corporations Fund and
31 made available for expenditure for any law or program of the
32 Division of Corporations may come from the following:

33 (1) Fees and any other amounts charged and collected pursuant
34 to Section 25608 of the Corporations Code, except for fees and
35 other amounts charged and collected pursuant to subdivisions (o)
36 to (r), inclusive, of Section 25608 of the Corporations Code.

37 (2) Fees collected pursuant to subdivisions (a), (b), (c), and (d)
38 of Section 25608.1 of the Corporations Code.

39 SEC. 32. Section 13984 of the Government Code is amended
40 to read:

1 13984. In order to ensure that Section 10240.3 of the Business
2 and Professions Code and Sections 215.5, 22171, and 50333 of
3 the Financial Code are applied consistently to all California entities
4 engaged in the brokering, originating, servicing, underwriting, and
5 issuance of nontraditional mortgage products, the secretary shall
6 ensure that the Director of Consumer Affairs or the Commissioner
7 of Real Estate, and the Commissioner of Financial Services
8 coordinate their policymaking and rulemaking efforts.

9 SEC. 33. Notwithstanding Section 12080.8 of the Government
10 Code, Sections 1 to 32, inclusive, of this act shall prevail over
11 Section 35 of, Sections 40 to 67, inclusive, of, and Sections 197,
12 202, 215, and 216 of, the Governor's Reorganization Plan No. 2
13 of 2012.